

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

DEPARTMENT NO. 56

HON. BRUCE R. GEERNAERT, JUDGE

) CURCH OF SCIENTOLOGY OF CAIFORNIA,)
)

) PLAINTIFF,)
)

) VS.)

) NO. C 420 153)
)

) GERALD ARMSTRONG,)
)

) DEFENDANT.)
_____))

REPORTER'S TRANSCRIPT OF PROCEEDINGS

WEDNESDAY, NOVEMBER 9, 1988

APPEARANCES:

FOR CHURCH OF SCIENTOLOGY
OF CALIFORNIA:

BOWLES & MOXON
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FOR MARY SUE HUBBARD:

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FOR MARY AND BENT CORYDON:

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ORIGINAL

MICHAEL W. PETTIT, CSR #2053
OFFICIAL REPORTER

EXHIBIT A

1 LOS ANGELES, CALIFORNIA WEDNESDAY, NOVEMBER, 1988, 9:10 A.M.
2 DEPT. 56 HON. BRUCE R. GEERNAERT, JUDGE
3 (APPEARANCES AS HERETOFORE NOTED.)
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7 THE COURT: THE MATTER OF THE CHURCH OF SCIENTOLOGY
8 VERSUS ARMSTRONG, CASE 420 153.

9 MR. MORANTZ: PAUL MORANTZ FOR BENT CORYDON.

10 MS. PLEVIN: TOBY PLEVIN FOR MARY AND BENT CORYDON

11 MR. BOWLES: TIMOTHY BOWLES ON BEHALF OF PLAINTIFF
12 CHURCH OF SCIENTOLOGY CALIFORNIA.

13 MR. HERTZBERG: MICHAEL LEE HERTZBERG FOR MARY SUE
14 HUBBARD.

15 THE COURT: ALL RIGHT.

16 NOW, THIS IS A MOTION TO UNSEAL THE FILE IN
17 THIS CASE, AND MY TENTATIVE RULING IS TO GRANT THAT. THERE
18 DOESN'T APPEAR TO BE ANY LEGAL GROUNDS FOR SEALING THIS
19 FILE.

20 IT WAS SEALED IN CONNECTION WITH THE
21 SETTLEMENT, AND I THINK IN DEFERENCE TO THE PARTIES,
22 HOWEVER, IT'S SUBJECT TO BEING UNSEALED UPON THE REQUEST OF
23 ANY REASONABLY INTERESTED PARTY. THAT'S THE REQUIREMENT OF
24 OUR PUBLIC POLICY AND LAW.

25 ANY PRIVILEGED DOCUMENT THAT WAS FILED,
26 OBVIOUSLY, THE PRIVILEGE WAS TERMINATED, AND, THEREFORE,
27 THERE'S NO GROUNDS FOR KEEPING ANYTHING THAT'S IN THIS
28 PUBLIC FILE PRIVATE OR SECRET.

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ANY ARGUMENT?

MR. HERTZBERG: YOUR HONOR, WOULD YOU LIKE ME TO ADDRESS IT, SINCE YOUR TENTATIVE IS DIRECTED AGAINST OUR POSITION?

THE COURT: I'VE READ YOUR PAPERS, AND I DON'T THINK THERE IS ANY POSSIBLE ARGUMENT THAT COULD CHANGE THAT RULING, BUT YOU ARE FREE TO OFFER SOMETHING.

MR. HERTZBERG: I WOULD LIKE TO, YOUR HONOR, BECAUSE THE EXTENT OF THE LITIGATION IN THIS CASE ON THE ISSUES OF PRIVACY AND THE UNIQUENESS OF THIS CASE I THINK TAKE THIS CASE OUTSIDE THE REALM OF THE USUAL RULES WHICH MIGHT APPLY.

I'M ALSO NOT SURE I UNDERSTOOD WHAT YOUR HONOR MEANT WHEN YOU SAID THAT ANY PRIVILEGE THAT MIGHT EXIST IS TERMINATED.

BUT LET ME JUST TELL YOUR HONOR WHY I THINK THAT JUDGE BRECKENRIDGE, IN THE SOUND EXERCISE OF HIS DISCRETION, APPROVED THE SETTLEMENT WITH THE SEALING OF THE FILES.

THIS CASE, UNIQUELY, WAS A LAWSUIT INVOLVING A CLAIM BY PLAINTIFFS THAT DOCUMENTS THAT WERE THE SUBJECT OF THIS LITIGATION HAD BEEN CONVERTED, HAD BEEN IN EFFECT STOLEN FROM THE CHURCH, AND THERE WERE CLAIMS OF CONVERSION AND INVASION OF PRIVACY THAT WERE BROUGHT, AND THE ENTIRE FOCUS AND FULCRUM OF THIS LITIGATION, WHICH TOOK YEARS IN THIS COURT, INVOLVED THE PLAINTIFFS SEEKING TO VINDICATE THEIR PRIVACY AND OWNERSHIP RIGHTS IN THOSE DOCUMENTS.

AND WHILE JUDGMENT WAS INITIALLY GRANTED FOR MR. ARMSTRONG, THE DEFENDANT, JUDGE BRECKENRIDGE NONETHELESS

1 RULED EXPLICITLY IN HIS OPINION ON PAGES -- INCIDENTALLY,
2 WHICH WERE NOT INCLUDED IN THEIR PAPERS. THEY GAVE THE
3 COURT A PURPORTED COPY OF JUDGE BRECKENRIDGE'S DECISION
4 WHICH OMITTED THE CRUCIAL SECTION THAT WE RELY ON WHERE
5 JUDGE BRECKENRIDGE FOUND THAT MR. ARMSTRONG HAD CONVERTED
6 THE DOCUMENTS AND THAT MRS. HUBBARD'S PRIVACY HAD BEEN
7 INVADED.

8 THE COURT: YOU SEE, HIS DECISION WAS SEALED ONLY
9 BECAUSE THE PARTIES ASKED. HE'S A PUBLIC JUDGE. HE WAS
10 MAKING A DECISION IN A PUBLIC CASE. THERE ARE NO GROUNDS
11 FOR HAVING THAT BE SEALED OR SECRET FROM VIEW AT ALL.

12 AND I GUESS I WANT TO ADVISE THE PARTIES THAT
13 WHEN THIS MATTER WAS ASSIGNED TO ME I CALLED JUDGE
14 BRECKENRIDGE TO SEE WHETHER OR NOT HE WOULD WANT TO HANDLE
15 THIS. HE'S NOW RETIRED, BUT HE DOES COME TO THIS BUILDING
16 OFTEN. AND HE SAID, "NO," THAT HE, NUMBER ONE, WOULDN'T;
17 AND, NUMBER TWO, PROBABLY COULDN'T.

18 SO I TOLD HIM THE NATURE OF THE MOTION, AND HE
19 SAID THAT HE HAD SEALED IT PURSUANT TO THE SETTLEMENT; THAT
20 OTHERWISE HE WOULD HAVE HAD NO INTEREST HIMSELF IN SEALING
21 EITHER HIS DECISION OR THE FILE; SO THAT I SHOULD PASS THAT
22 ON TO YOU.

23 MR. HERTZBERG: YOUR HONOR, HOWEVER, THE RECORD MAKES
24 IT CLEAR -- I UNDERSTAND WHAT YOUR HONOR IS SAYING ABOUT THE
25 JUDGE'S REMARKS; BUT NOTWITHSTANDING THAT, THE RECORD IS
26 CLEAR THAT THERE WOULD HAVE BEEN NO SETTLEMENT AT ALL IN
27 THIS CASE HAD THERE NOT BEEN THE AGREEMENT TO SEAL THE
28 DOCUMENTS, BECAUSE --

1 THE COURT: WELL, THAT MAY BE TRUE.
2 MR. HERTZBERG: BECAUSE --
3 THE COURT: LET ME TELL YOU, THAT WELL MAY BE TRUE,
4 AND THAT'S HAPPENED IN MY PRESENCE, ALSO, IN MY COURT. AND
5 WHEN PARTIES ENTER INTO AN AGREEMENT BASED UPON MAINTAINING
6 A PUBLIC FILE, ANYTHING IN A PUBLIC FILE SECRET, THEY DO SO
7 WITH EITHER THE ACTUAL OR CONSTRUCTIVE NOTICE THAT THAT
8 AGREEMENT WILL BE ABIDED BY ONLY AS LONG AS NO LEGITIMATELY
9 INTERESTED PARTY SEEKS TO HAVE IT UNSEALED, BECAUSE THERE'S
10 NO LEGAL BASIS FOR ENFORCING AN AGREEMENT TO KEEP SECRET THE
11 BUSINESS OF THE PUBLIC COURTS.
12 MR. HERTZBERG: YOUR HONOR, THIS IS WHERE WE'RE
13 PASSING EACH OTHER, AND I WANT TO JUST TAKE AN STAB HERE AT
14 TRYING TO FOCUS THE COURT ON PERHAPS A POINT THAT I HAVEN'T
15 ARTICULATED WELL ENOUGH.
16 WHAT MAKES THIS DIFFERENT FROM THE USUAL OR ANY
17 OTHER CASE WHERE A COURT HAS SEALED A FILE IS THAT THE VERY
18 SUBJECT OF THE LITIGATION HERE WAS THE PRIVACY OF THE
19 DOCUMENTS. THAT IS WHAT MAKES THIS DIFFERENT.
20 THE COURT: NO. WHEN DOCUMENTS REACH A PUBLIC FILE,
21 THEY ARE AUTOMATICALLY, WITH A FEW STATUTORY EXCEPTIONS,
22 SUCH AS THINGS INVOLVING MINORS, FOR EXAMPLE, AND THERE ARE
23 SOME EXCEPTIONS ABOUT CERTAIN GRAND JURY PROCEEDINGS, THERE
24 ARE SOME EXCEPTIONS ABOUT ATTORNEY-CLIENT PRIVILEGE, WHEN
25 COURTS MAKE IN CAMERA INSPECTIONS, BUT ONCE IT REACHES THE
26 PUBLIC FILE, THEN PARTIES MAKING AN AGREEMENT CAN AGREE, AS
27 THEY DID HERE, THAT THE COURT WILL ORDER THE RETURN OF
28 CERTAIN DOCUMENTS, AND THEN THEY CAN AGREE THAT THOSE

1 DOCUMENTS WILL BE MAINTAINED CONFIDENTIAL. THAT'S AN
2 ENFORCEABLE AGREEMENT THAT IS NOT CONTRARY TO PUBLIC POLICY.

3 BUT TWO PARTIES DO NOT HAVE THE POWER TO MAKE A
4 CONTRACT THAT IS GOING TO BE ENFORCED OVER THE OBJECTION OF
5 THIRD PARTIES THAT WEREN'T PARTIES TO THAT AGREEMENT THAT
6 DOCUMENTS FILED IN A PUBLIC FILE WILL REMAIN PRIVATE OR
7 SECRET. THE COURT CANNOT COOPERATE -- OR I'LL EVEN USE THE
8 WORD "CONSPIRE" -- WITH CONTRACTING PARTIES TO TAKE PUBLIC
9 BUSINESS AND MAKE IT PRIVATE.

10 MR. HERTZBERG: YOUR HONOR, THEN, I WANT TO JUST
11 RESPOND TO THAT AND THEN ADD ONE MORE POINT HERE.

12 EFFECTIVELY, I THINK WHAT YOUR HONOR IS SAYING,
13 THEN, IN VIEW OF JUDGE BRECKENRIDGE'S EXTENSIVE
14 PARTICIPATION IN THE COLLOQUY ABOUT THE SEALING OF THE FILES
15 AND HIS APPROVAL OF THAT -- AND THAT IS IN THE TRANSCRIPTS
16 THAT WE'VE APPENDED TO OUR PAPERS -- I THINK THE COURT IS
17 EFFECTIVELY SAYING THAT JUDGE BRECKENRIDGE CONSPIRED TO DO
18 SOMETHING HE WAS WITHOUT POWER TO DO.

19 THE COURT: NO. I'VE DONE THE SAME THING. I WANT
20 THIS RECORD TO SHOW I'VE DONE THE SAME THING IN THE SAME
21 CIRCUMSTANCES. WHAT I DO WHEN I MAKE THAT ORDER, AND I TELL
22 THE PARTIES, I ADD TO THE ORDER THAT, "THIS ORDER IS SUBJECT
23 TO BEING REVERSED OR UNDONE AT THE REQUEST OF ANY REASONABLY
24 INTERESTED PARTY," AND THAT WAS IMPLICIT IN WHAT JUDGE
25 BRECKENRIDGE DID, EVEN THOUGH NOT STATED.

26 MR. HERTZBERG: BUT THAT'S PRECISELY THE PROBLEM. HE
27 DID NOT STATE IT, AND IT WAS NOT IMPLICIT.

28 THE COURT: WELL, IF IT WASN'T IMPLICIT, THEN,

1 WITH ALL DUE RESPECT TO JUDGE BRECKENRIDGE, IT WAS BEYOND
2 HIS AUTHORITY.

3 MR. HERTZBERG: WELL, WHAT YOU ARE SAYING, YOUR
4 HONOR, IS THAT THE JUDGE DID SOMETHING BEYOND HIS AUTHORITY
5 WHICH WE RELIED ON. NOW, THE KRONEN CASE WHICH THEY CITED
6 AS THE PRINCIPLE --

7 THE COURT: BY BEYOND HIS AUTHORITY? IT CERTAINLY
8 WASN'T BEYOND HIS AUTHORITY TO GRANT THE ORDER. BUT IF HE
9 INTENDED THAT THE ORDER WOULD BE UNCHANGEABLE AT THE REQUEST
10 OF ANY LEGITIMATELY INTERESTED PARTY, THEN THAT WOULD HAVE
11 BEEN -- AND I DON'T THINK THAT'S WHAT HE DID -- BUT THAT
12 WOULD HAVE BEEN BEYOND HIS AUTHORITY.

13 MR. HERTZBERG: WELL, YOUR HONOR, I THINK, WITH ALL
14 DUE RESPECT, THAT THE RECORD IS CLEAR THAT WE RELIED ON WHAT
15 HE DID, WHICH WAS AFTER AN EXTENSIVE COLLOQUY, WHICH IS
16 APPENDED TO OUR RESPONSIVE PAPERS HERE, WHERE THERE WAS NO
17 QUALIFICATION. AND WE HAVE NOW, AS IT TURNS OUT, RELIED TO
18 OUR DETRIMENT. IN THE KRONEN CASE --

19 THE COURT: YOU CAN'T RELY UPON A MISTAKE OF LAW.
20 THE LAW DOES NOT AFFORD THIS TYPE OF AN ORDER WHICH WILL GO
21 ON FOREVER, REGARDLESS OF WHO WOULD MAKE THE REQUEST OR WHAT
22 THE GROUNDS OF THE REQUEST WOULD BE. IF THE LOS ANGELES
23 TIMES SOUGHT TO HAVE THIS FILE OPENED, THERE WOULD BE NO WAY
24 THAT THE JUDICIAL SYSTEM COULD KEEP IT FROM THEIR EYES.
25 THAT'S OUR SYSTEM.

26 MR. HERTZBERG: YOUR HONOR, WITH ALL DUE RESPECT, I'M
27 NOT SURE, BECAUSE THE KRONEN CASE --

28 THE COURT: I'M SURE. AND YOU'RE NOT ARGUING

1 ANYTHING YOU HAVEN'T PUT IN YOUR PAPERS, AND I MUST DRAW
2 THIS TO A CONCLUSION.

3 MR. HERTZBERG: MAY I ADDRESS ONE OTHER POINT, YOUR
4 HONOR?

5 THE COURT: ALL RIGHT.

6 MR. HERTZBERG: ON THE NEED, WHICH I HAVE NOT
7 ADDRESSED YET, THEIR NEED IS THE MOST SUPERFICIAL,
8 PERFUNCTORY, ATTENUATED NEED, AS FAR AS WE'RE CONCERNED.

9 COURTS IN THIS ARMSTRONG LITIGATION HAVE
10 REPEATEDLY ORDERED THE SEALING THAT WE SEEK TO MAINTAIN
11 HERE, VARIOUS COURTS OF APPEAL, THE FEDERAL COURTS. THERE
12 ARE A SERIES OF ORDERS THAT WERE ISSUED IN THIS CASE.

13 YOUR HONOR IS PROPOSING TO UNDO THE EFFECT OF
14 FOUR YEARS OF LITIGATION HERE UPON AN ATTENUATED AND
15 PERFUNCTORY SHOWING BY THEM THAT THEY MIGHT FIND SOMETHING
16 THAT MIGHT BE RELEVANT TO COLLATERAL ESTOPPEL.

17 THE COURT: THAT'S ALL THEY NEED TO SHOW. THAT MAKES
18 THEM LEGITIMATELY INTERESTED. THEY ARE ENTITLED TO KNOW
19 WHAT IS IN THAT FILE BECAUSE THEY ARE PARTICIPATING IN
20 ACTIONS WHICH INVOLVE ISSUES THAT ARE SIMILAR TO THE ONES
21 INVOLVED IN THIS CASE OR AT LEAST RELATE TO ISSUES THAT
22 EVIDENCE OR DOCUMENTS IN THIS FILE WOULD LIKELY BE RELEVANT
23 TO. THAT'S THE ONLY TEST. OBVIOUSLY, THEY CAN'T BE
24 REQUIRED TO IDENTIFY DOCUMENTS IN A FILE THAT THEY CAN'T
25 LOOK INTO.

26 MR. HERTZBERG: ALL RIGHT.

27 YOUR HONOR, I CAN SEE -- I MEAN IT'S OBVIOUS I
28 AM NOT ABLE TO CONVINCING YOU THROUGH ADVOCACY TO CHANGE YOUR

1 TENTATIVE. WHAT I WOULD LIKE TO URGE THIS COURT TO DO IS TO
2 PLEASE STAY YOUR ORDER, BECAUSE WE'RE GOING TO SEEK, IN ALL
3 PROBABILITY --

4 THE COURT: I'LL BE GLAD TO DO THAT. YOU ARE
5 ENTITLED TO HAVE THIS REVIEWED.

6 MR. HERTZBERG: ALL RIGHT.

7 THE COURT: THE RULING ON THE MOTION IS THAT THE
8 MOTION IS GRANTED; THE FILE IS ORDERED UNSEALED FOR THE
9 REASONS AND ON THE GROUNDS SET FORTH IN THE MOVING PAPERS
10 AND ON THE NOTES OF THE OFFICIAL COURT REPORTER.

11 IS A 30-DAY STAY SUFFICIENT?

12 MS. PLEVIN: YOUR HONOR, I THINK A 30-DAY STAY WOULD
13 BE INAPPROPRIATELY LONG UNDER THE CIRCUMSTANCES. CERTAINLY,
14 IT CAN BE ADDRESSED IN A MUCH SHORTER PERIOD OF TIME,
15 INSOFAR AS WE HAVE TWO SEPARATE CASES GOING ON BEHALF OF
16 MR. CORYDON, AND IN ONE OF THOSE CASES A 30-DAY STAY COULD
17 CAUSE IRREPARABLE HARM.

18 THE COURT: IN WHAT WAY? TELL ME HOW.

19 MS. PLEVIN: WE HAVE A CASE WHICH IS GOING TO BE
20 TERMINATED AS OF DECEMBER 29 BY THE FIVE-YEAR RULE, WHICH
21 WAS EXTENDED TO SIX YEARS. HOWEVER, IN THAT CASE THERE IS
22 CURRENTLY ACTIVE DISCOVERY AND ACTIVE MOTION PRACTICE. FOR
23 THE PURPOSES OF THAT CASE, AS WELL AS THE OTHER CASE, WE DO
24 NEED THE DOCUMENTS, AND, THEREFORE, I WOULD REQUEST THAT THE
25 STAY BE A MINIMUM PERIOD OF TIME.

26 THE COURT: YOU SURE WAITED A LONG TIME, THEN. NO, I
27 THINK 30 DAYS IS A REASONABLE PERIOD. I DON'T THINK A
28 LONGER PERIOD IS WARRANTED NOR NECESSARY.

1 SO THE ORDER WILL CONTAIN ANOTHER PARAGRAPH:
2 EXECUTION OF THIS ORDER (I.E. THE UNSEALING BY THE COUNTY
3 CLERK) IS STAYED TO DECEMBER 9, 1988.

4 NOTICE WAIVED?

5 MR. HERTZBERG: YOUR HONOR, I JUST WANT TO ASK ONE
6 QUESTION TO CLARIFY THE PROCEDURE HERE. THE INITIAL MOTION
7 WAS BROUGHT BY MR. MORANTZ.

8 THE COURT: THE MOTION AND THE JOINDER ARE BEING
9 GRANTED.

10 MR. HERTZBERG: I JUST WANT TO ADDRESS THAT JOINDER
11 ASPECT FOR ONE MINUTE. UNDER RULE 111 OF THE MANUAL, THEY
12 SOUGHT JOINDER ON BEHALF OF PARTIES THAT WERE NOT --

13 THE COURT: IT MAY BE I AGREE WITH YOU, BUT IT'S SORT
14 OF MOOT. I MEAN IF IT'S UNSEALED, IT'S UNSEALED FOR THE
15 PUBLIC.

16 MR. HERTZBERG: IT'S NOT AT ALL, BECAUSE THEY ARE
17 RAISING COMPLETELY DIFFERENT ARGUMENTS, AND THE SCOPE OF
18 WHAT WE'RE GOING TO HAVE TO ADDRESS IS DOUBLED OR TRIPLED IF
19 YOU ALLOW THEIR IMPROPER JOINDER HERE. THEY RAISED
20 COMPLETELY DIFFERENT ISSUES, COMPLETELY DIFFERENT THEORIES
21 THAN THE PARTY WHO INITIALLY MOVED THAT, THAT PURPORTEDLY
22 SOUGHT TO JOIN IN. AND, BY THE WAY, THEIR JOINDER IS
23 ALSO -- THERE ARE COMPLETELY DIFFERENT LAWSUITS.

24 THE COURT: THAT DOESN'T MATTER. ON THE ISSUES THAT
25 I'M DECIDING, WHAT IS DIFFERENT?

26 MR. HERTZBERG: WELL, I'LL TELL YOU, ONE OF THE
27 ISSUES THAT'S GOING TO BE RAISED ON THE APPEAL IS WHETHER
28 THERE WAS A SHOWING OF NECESSITY, WHETHER THEIR SHOWING WAS

1 ADEQUATE TO JUSTIFY UNSEALING THE FILES.

2 THE COURT: I WILL SAY ON THIS RECORD THAT I AM
3 BASING THE NECESSITY SHOWING ON THE MOVING PARTY.

4 MR. HERTZBERG: ALL RIGHT.

5 THE COURT: NOTICE WAIVED?

6 MR. BOWLES: THERE IS ONE OTHER MATTER.

7 MR. MORANTZ: WE WOULD WAIVE NOTICE.

8 MR. BOWLES: MR. MORANTZ HAS REQUESTED THIS UNSEALING
9 IN A LIMITED CAPACITY; HE HAS NOT REQUESTED THE FILE TO BE
10 UNSEALED FOR ALL PURPOSES, BUT ONLY FOR HIS CLIENT TO BE
11 ALLOWED --

12 THE COURT: NO. IF IT'S UNSEALED, IT'S UNSEALED.
13 THERE'S NO GROUNDS FOR IT TO BE SEALED.

14 MR. HERTZBERG: THAT'S NOT WHAT THEY ASKED FOR, YOUR
15 HONOR. THEY ASKED FOR THEIR RIGHT TO SEE THE FILE.

16 THE COURT: THAT IS UNENFORCEABLE FROM A PRACTICAL
17 STANDPOINT STATUS FOR A FILE TO BE IN. THERE'S NO GROUNDS
18 FOR THAT LIMITED OPENING OF THE FILE. THAT WOULD JUST
19 FOSTER FURTHER PROCEEDINGS WHERE NONE ARE NECESSARY.

20 MR. HERTZBERG: YOUR HONOR HAS NOW CHANGED THE ENTIRE
21 FOCUS OF THIS INITIAL MOTION AS FAR AS WE'RE CONCERNED.
22 THEY WENT TO PAINS TO POINT OUT THAT THEY ARE NOT ASKING FOR
23 A GENERAL UNSEALING OF THE FILE; THEY ARE ASKING AS PRIVATE
24 PARTIES TO BE ABLE TO VIEW THE DISCRETE ASPECTS OF THE FILE.

25 THE COURT: I AM GRANTING MORE THAN THEY'VE REQUESTED
26 IN THAT RESPECT BECAUSE THERE'S NO PRACTICAL MEANS OF
27 ENFORCING THAT.

28 WE CANNOT CARRY ON WITH THIS PRIVATE AGREEMENT

1 AND BURDEN THE CLERK'S OFFICE SO THAT THEY'LL HAVE TO TAKE
2 IDENTIFICATION FROM PARTIES WHEN THEY WANT TO LOOK INTO A
3 FILE; WE'D JUST HAVE REPEATED MOTIONS. THE BUSINESS OF THE
4 COURT MUST GO FORWARD.

5 AND, AS I SAY, THIS AGREEMENT WAS CONTRARY TO
6 PUBLIC POLICY TO START WITH.

7 MR. HERTZBERG: WHAT YOU ARE SAYING IS THAT JUDGE
8 BRECKENRIDGE, AFTER EXTENDED COLLOQUY AND CONSIDERATION,
9 ALLOWED THE PLAINTIFFS IN THIS ACTION TO BE LURED INTO A
10 SETTLEMENT OF THE CASE ON THE BASIS OF AN AGREEMENT WHICH HE
11 SHOULD NOT HAVE APPROVED.

12 AND I THINK IT'S OUTRAGEOUS THAT TWO YEARS
13 AFTER THE CASE IS SETTLED WE NOW FIND THAT SOMETHING WHICH
14 WAS AN ESSENTIAL ELEMENT THAT WE BARGAINED FOR CAN JUST GO
15 OUT THE WINDOW IN TWO MINUTES BECAUSE WE'RE NOW TOLD THE
16 JUDGE SHOULDN'T HAVE DONE IT.

17 THE COURT: YOU CAN'T BARGAIN WITH A JUDGE. AND I'M
18 CONFIDENT THAT JUDGE BRECKENRIDGE DID NOT INTEND THE TYPE OF
19 ORDER THAT YOU ARE DESCRIBING. IT WAS IMPLICIT IN HIS ORDER
20 THAT IT WAS SUBJECT TO BEING REVIEWED, SUBJECT TO BEING
21 CHANGED, DEPENDING UPON CIRCUMSTANCES BROUGHT BEFORE EITHER
22 HIM OR HIS SUCCESSOR.

23 I'M CONFIDENT THAT THAT'S WHAT HE INTENDED, AND
24 I'M CONFIDENT THAT YOU WERE NOT BARGAINING WITH HIM, THAT HE
25 ACCEPTED THE BARGAIN REACHED BY THE PARTIES AND MADE THE
26 ORDER, AND IMPLICIT IN THAT ORDER WAS THAT IT WAS OBVIOUSLY
27 SUBJECT TO THE REQUIREMENTS OF LAW AND SUBJECT TO ANY
28 FURTHER ACTION THAT MIGHT BE TAKEN BY ANY LEGITIMATELY

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INTERESTED PARTY.

THAT CONCLUDES THE MATTER.

IS NOTICE WAIVED?

MR. MORANTZ: WE WILL WAIVE NOTICE.

DOES THE COURT WISH ME TO PREPARE AN ORDER?

THE COURT: IS NOTICE WAIVED OR NOT?

MR. HERTZBERG: YES, NOTICE IS WAIVED.

MR. MORANTZ: DOES THE COURT REQUIRE AN ORDER BE
PREPARED?

THE COURT: I DON'T THINK IT'S NECESSARY.

MS. PLEVIN: THANK YOU, YOUR HONOR.

MR. MORANTZ: THANK YOU.

(PROCEEDINGS CONCLUDED.)

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

DEPARTMENT NO. 56 HON. BRUCE R. GEERNAERT, JUDGE

_____)	
CURCH OF SCIENTOLOGY OF CALIFORNIA,)	
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PLAINTIFF,)	
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VS.)	NO. C 420 153
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GERALD ARMSTRONG,)	REPORTER'S
)	CERTIFICATE
DEFENDANT.)	
_____)	

STATE OF CALIFORNIA)	
)	SS
COUNTY OF LOS ANGELES)	

I, MICHAEL W. PETTIT, OFFICIAL REPORTER OF THE SUPERIOR COURT OF THE STATE OF CALIFORNIA, FOR THE COUNTY OF LOS ANGELES, DO HEREBY CERTIFY THAT THE FOREGOING PAGES, 1 THROUGH 12, COMPRISE A FULL, TRUE AND CORRECT TRANSCRIPT OF THE PROCEEDINGS HELD IN THE ABOVE MATTER AS REPORTED BY ME ON NOVEMBER 9, 1988.

DATED THIS 10TH DAY OF NOVEMBER, 1988.



 MICHAEL W. PETTIT, CSR #2053